

Application No. 10/007604
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Amendment
Attorney Docket No. A39.2P-11396-US02

REMARKS

This Preliminary Amendment is submitted in response to the final Office Action dated **October 7, 2003**. Therefore, a response is due April 7, 2004. This amendment is being filed with an RCE and a three month extension fee.

In the Office Action, the Examiner objected to the 6/30/03 amendment and claims 2-5, 8-10, and 47-51. Claims 1-51 were rejected. Applicant has amended the specification, abstract and Fig. 4. Applicant has cancelled claims 1-24, 29-32, 34, 36-38, 40-42, and 46-51, amended 25-28, 33, 35, 39, and 43-45 and added new claims 52-64. Claims 25-28, 33, 35, 39, 43-45 and 52-64 are now pending in the application.

The specification, abstract and claim 43 have been amended to delete language added in the previous amendment, namely "devoid of electroplating" and "non-bonded". Figure 4 has been amended to correctly reference petals 10. Claim 43 has been amended to include the feature of aligning the scorings of the petals of the jacket with the weakening planes of the separate swaged segments. Support for this amendment is found in the specification, figures and claims of the application as filed. Amendments have been made to claims 25-28, 33, 39, and 43-45 to change the dependency of the claims and to more clearly define the invention. New claim 52 has been added. Support for this claim is found in claim 43 as filed and the specification and drawings, particularly Figures 5 and 7. No new matter has been added. New claims 53-55 have been added. Support for these claims can be found in the substitute specification filed with the 6/30/03 amendment at page 13, lines 11-13. No new matter has been added. New claims 56-64 have been added. Support for these claims can be found in the claims as originally filed. No new matter has been added.

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Response to Amendment

The Examiner objected to the amendment filed 6/30/03 under 35 U.S.C. 132 as he believes it introduced new matter into the disclosure. In response, Applicant has cancelled the language objected to, namely the "devoid of electroplating" and "non-bonded" language.

Claim Objections

The Examiner objected to claims 2-5, 8-10, and 47-51 under 37 C.F.R. 1.75, first paragraph, as containing insufficient structure to perform the recited functions. Applicant has cancelled claims 2-5, 8-10, and 47-51.

Claim Rejections – 35 USC §112

The Examiner rejected claims 1-51 under 34 USC 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make or use the invention. Applicant believes that the 112 rejection of paragraph 3 of the office action has been overcome in view of the arguments previously made in and the Affidavits of Steven Moore, Lawrence Head and Robert Kramer filed with the amendment dated 6/30/03. The Examiner did not maintain his earlier objection to the specification on this same basis but maintained his rejection of the claims. Applicant believes that the arguments and affidavits overcame the 112 rejection to the claims. They demonstrate that a person of ordinary skill in the art would be enabled to practice the claimed invention. The affidavits demonstrate that one skilled in art would understand that punch and die procedures are available and are utilized in the manufacture of bullets. Therefore, Applicant requests that the Examiner consider the arguments previously set forth and remove the 112 rejection.

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The Examiner rejected claims 1-51 under 35 USC 112, second paragraph, as being indefinite because the preambles of Applicant's independent claims refer to "current FBI and IWBA standards for law enforcement." Applicant believes that this 112 rejection of paragraph 4 of the office action is moot in view of the previous cancellation of the words "capable of meeting current FBI and IWBA standards" in the preambles of the independent claims in Applicant's 6/30/03 amendment.

Response To §103 Rejections

The Examiner rejected claims 1-15, 17-25, 28-35, 37, 39-45 and 47-51 under 35 USC 103(a) as being unpatentable over Moore in view of US 4,836,110 to Burczynski. Claims 25-28, 33, 35, 39 and 43-45, as amended, and new claims 52-64 are patentable over this combination. The Examiner stated that Moore does not disclose separate core segments but that Burczynski does disclose such as feature. Burczynski does disclose a bullet having a core formed by a plurality of parting lines. However, the reference does not disclose separate segments. The parting lines terminate within the body of the bullet and the reference explicitly states at col. 3, lines 37-39 that "in no instance does any parting line extend entirely through the body of the bullet, either axially or radially." Therefore, the segments of Burczynski cannot be considered to be separate. Independent claim 43, as amended, and new claim 52 both call for separate core segments. Therefore, claims 25-28, 33, 35, 39 and 43-45, as amended, and new claims 52-64 are not met by the combination of Moore in view of Burczynski.

Furthermore, claims 25-28, 33, 35, 39 and 43-45, as amended, and new claims 52-64 each include the feature that the weakening planes of the separate segments are aligned with the scorings of the jacket. None of the references cited by the Examiner show this feature.

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For the reasons set forth above, claims 25-28, 33, 35, 39 and 43-45, as amended, and new claims 52-64 distinguish over the combination of Moore in view of Burczynski. Therefore, Applicant requests allowance of claims 25-28, 33, 35, 39 and 43-45, and new claims 52-64.

The Examiner further rejected claim 27 under 103 citing Moore in view of Burczynski and in further view of US 5641937 issued to Carter. Claim 27 and the other remaining dependent claims which were rejected under 103 are believed to be patentable because they depend from allowable independent claims 43 and 52.

CONCLUSION

In light of the above comments, the instant application is now seen to be in condition for allowance. Applicant respectfully requests withdrawal of the rejections. Applicant further respectfully requests notification of allowance of the claims.

The undersigned is in the process of obtaining a Revocation and Power of Attorney and will forward the same when it is executed by the client.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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By: 

Jane H. Arrett

Registration No.: 33355

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001